



Australian Government
Department of Immigration and Citizenship

DECISION RECORD

Client Details

Main Applicant

Client Name Ahmad ALZOUABI
Client Date of Birth 9 February 1984

Details of visa application

Visa Class Student (Temporary) (Class TU)
Place of Lodgement Amman, Jordan
Date of Visa Application 24 February 2013
File Number H13/120
Visa Application Charge Receipt Number 21220
Intended courses 57EB3333

Information and evidence considered

I am a delegated decision maker under section 65 of the *Migration Act 1958* (the Act). In reaching my decision, I have considered the following:

- relevant legislation contained in the Act and Migration Regulations 1994 (the Regulations);
- Ministerial Direction No. 53 - Assessing the genuine temporary entrant criterion for student visa applications;
- information contained in the department's policy guidelines, known as the Procedures Advice Manual 3; and
- all documents and information provided by you in support of your application.

You applied for a Student (Temporary) (Class TU) visa. This was taken to be an application for a 570 visa because it satisfied the validity requirements for that visa subclass.

Findings – Main Applicant

Based on the documents and information provided, I find that you do not meet the criteria for the grant of an Independent ELICOS visa

Under law, a visa cannot be granted unless the applicant meets the relevant legal requirements that are specified in the Act and the Regulations.

The legal requirement in clause 570.223(1)(a) in Schedule 2 to the Regulations has not been met by you on the date I made my decision. The relevant part of clause 570.223(1)(a) states that:

(1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because:

people our business

- (a) *the Minister is satisfied that the applicant intends genuinely to stay in Australia temporarily, having regard to:*
- (i) *the applicant's circumstances; and*
 - (ii) *the applicant's immigration history; and*
 - (iii) *if the applicant is a minor — the intentions of a parent, legal guardian or spouse of the applicant; and*
 - (iv) *any other relevant matter*

This clause is also known as the genuine temporary entrant criterion.

Ministerial Direction No 53 – *Assessing the genuine temporary entrant criterion for Student visa applications* sets out the factors that must be taken into account when assessing the genuine temporary entrant criterion for Student visa applications. A complete copy of Ministerial Direction No 53 is available at www.immi.gov.au/gateways/agents/pdf/direction-53-assessing-gte.pdf

In summary, these factors include:

- The applicant's circumstances in their home country, including the political and economic situation in the applicant's home country, the extent of the applicant's personal ties to their home country, and military service commitments that would present as a significant incentive for the applicant not to return to their home country.
- Whether the applicant's potential circumstances in Australia present as a strong incentive to remain in Australia, including the extent of the applicant's ties with Australia, whether the student visa program may be used to circumvent permanent migration programs, whether the Student visa is being used to maintain ongoing residence, the applicant's knowledge of living in Australia, and whether the primary and secondary applicants have entered into a relationship of concern.
- The value of the course to the applicant's future, including remuneration and career prospects in the applicant's home country.
- The applicant's immigration history, including visa and travel history for Australia and other countries.
- If the applicant is a minor, the intentions of a parent, legal guardian or spouse of the applicant.

Any other matter relevant to the applicant's intention to stay in Australia temporarily must also be considered. These factors have been weighed up to make an overall decision.

Reasons – Main Applicant

In considering whether you met the genuine temporary entry criterion I had regard to the following factors, consistent with clause 570.223 and Ministerial Direction No 53. The factors were used to weigh up your circumstances as a whole, in reaching a finding about whether you satisfy the genuine temporary entrant criterion.

I have considered the political and security situation in your home country. In assessing a Student visa application I am required to consider the circumstances in an applicant's home country that may encourage an applicant to remain in Australia. As part of this consideration particularly in relation to Syria, I have also considered country information published by the Australian Department of Foreign Affairs and Trade at www.smartraveller.gov.au/zw-cgi/view/Advice/Syria which lists Syria as a "Do Not Travel" country recommending Australians to depart Syria immediately.

I note that the Policy Direction indicates that the existence of civil disruption, including war, lawlessness or political upheaval in the applicant's home country is a relevant factor

significant civil disruption. I have placed considerable weight on the current security situation and political turmoil in Syria and am therefore not satisfied that you will be compelled to return to Syria on account of the current situation. In reaching my decision, I have taken into consideration the country information published by the Australian Department of Foreign Affairs and Trade - <http://www.smarttraveller.gov.au/zw-cgi/view/Advice/syria> and also other publicly available information on the civil and political situation in Syria.

I have also taken into consideration the value of the course to your future. I have considered your answers to question no.38 setting out your reasons for undertaking your intended course of study in Australia. I have noted that you have failed to give strong reasons to satisfy me that your study plan in Australia will assist you to obtain employment or improve your employment prospects in your home country in the future. I am unable to reconcile this action with obtaining an English language qualification from Australia which is unlikely to increase your remuneration level or career prospects.

In addition to that, I have also considered your economic situation in your home country. I note that you have not been employed for the last 12 months and you did not provide any evidence to suggest that you own any business ties to Jordan or Syria. Giving consideration to your economic situation in Jordan and Syria, I am therefore not satisfied that you will be compelled to return to Jordan or Syria on account of any business or economic reasons.

I have given regard to your immigration history. As you had no immigration history to consider that may be beneficial or adverse to your application, this aspect was not relevant to my assessment.

Clause 570.223(1)(a)(iii) applies to applicants who are minors i.e. under 18 years of age. As you are over 18 years of age, this factor was not relevant to my assessment.

I have given regard to whether there is any other relevant matter. As there are no other relevant matters to consider that may be beneficial or adverse to your application, this factor was not relevant to my assessment.

Conclusion of reasons – Main Applicant

After weighing up these factors as a whole, you have not been able to satisfy me that you genuinely intend a temporary stay in Australia.

Assessment of Main Applicant against other subclasses in Class (TU)

You have also been considered against the other subclasses within Student (Temporary) (Class TU): subclasses 571, 572, 573, 574, 575 and 576. However no claims have been made against the criteria of any of these subclasses, nor is there any evidence before me to indicate that you could satisfy the criteria of any of the above subclasses.

You did not satisfy the primary criteria for any of these subclasses because you:

- were not enrolled in, or have not been offered a place in, a principal course of study that had been specified by Gazette Notice as a type of course for any of these subclasses
- (in the case of Subclass 576) did not have the support of the AusAID Minister or the Defence Minister for the grant of the visa (clause 576.229 of the Regulations).

You did not satisfy the secondary criteria for the grant of any subclass of student visa within Student (Temporary) (Class TU) because you are not a member of the family unit of a person who:

You did not satisfy the secondary criteria for the grant of any subclass of student visa within Student (Temporary) (Class TU) because you are not a member of the family unit of a person who:

- is the holder of a subclass of student visa within Student (Temporary) (Class TU); or
- satisfies, or has satisfied, the primary criteria for the grant of a subclass of student visa within Student (Temporary) (Class TU) (Regulation 571.322, 572.322, 573.322, 574.322 and 575.322); and
- (in the case of Subclass 576) had the support of the AusAID Minister or the Defence Minister for the grant of the visa (Regulation 576.322).

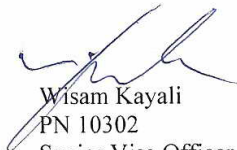
As the application was not made on form 157G (Application for a Student Guardian visa), it was not a valid application for grant of a subclass 580 Student Guardian visa (Item 1222(1) (ca) of the Migration Regulations

Decision – Main Applicant

As set out in Ministerial Direction Number 53, I have weighed your circumstances and immigration history and have also considered whether there are any other matters relevant to this assessment of the your genuine intention to temporarily stay in Australia.

On balance, I am not satisfied that you are a genuine applicant for entry and stay as a student because I am not satisfied that you intend to genuinely stay in Australia temporarily having regard to your circumstances and immigration history and other relevant matters. On this basis, I am not satisfied that you meet the requirements of 570.223. I must refuse grant of this visa.

Yours sincerely



Wisam Kayali
PN 10302
Senior Visa Officer
Temporary Entry Section
Amman
Department of Immigration and Citizenship



12 March 2013